

MEMORIALS
OF THE

DECLARATION

Of the LORDS and Commons, now Assembled

in PARLIAMENT,

28. of May, 1642.

In answer to a Declaration under His Majesties

Majesty concerning the business of Hull, sent in a

Message to both Houses the

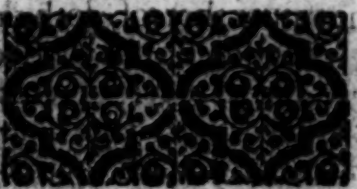
21. of May, 1642.

According to an Order made in the House of Commons, on

Saturday last, I have examined this Copie with the

Originall, and have mended it.

H. Elfi. Cler. Par. D. Com.



LONDON:

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1642.

THE THIRD REMONSTRANCE.

Although the great affairs of this Kingdom, and the miserable and bleeding condition of the Kingdom of *Ireland* afford us little leasure to spend our time in Declarations, and in Answers and Replies, yet the Malignant parties about His Majestie, taking all occasions to multiply Calumnies upon the Houses of *Parliament*, and to publish sharp Invektives under His Majesties Name against them and their proceedings, a new Engine which they have invented to heighten the destructions of this Kingdom, and to beget and increase distrust and disaffection between the King and His *Parliament* and the People, We cannot be so much wanting to our own conscience, or to the duty of our Trust, as not to clear our selves from those false aspersions, and (which is our chiefest care) to disabule the Peoples minds, and open their eyes, that under the false they and pretence of the Law of the Land, and of their own Rights and Liberties, they may not be carried into the Road way, that leadeth to the utter ruine and subversion thereof. A late occasion that these wicked spirits of division have taken to defame, and indeed to arraigne the proceedings of both Houses of *Parliament*, hath been from our Votes of the 28. of *April*, and our Declaration concerning the *subjection of the*, which because we put forth, before we could send our Answer concerning that matter unto His Majestie, those mischievous Instruments of dissention, between the King, the *Parliament*, and the People, whose chief labour and study is to misrepresent our Actions to His Majestie and to the Kingdom, would needs interpret this as an appeal to the people, and a declining of all discourse between His Majestie and us, as if we thought it to no purpose to endeavour any mote to give him satisfaction, and without expecting any longer our answer, under the name of a Message from His Majestie to both Houses, they themselves have indeed made an Appeal to the people as the message it self doth in a manner grant it to be, offering to joyn issue with us in that way, and in the nature thereof, doth cleerly shew it self to be no other, Therefore we shall likewise send our Answer to the Kingdom, not by way of Appeal as we are charged but to prevent them from being their owne executioners, and from being perswaded under false colours of defending the Law, and their own Liberties, to destroy both with their own hands, by taking their lives, Liberties and Estates out of their hands whom they have chosen and entrusted therewith, and resigning them up unto some evill Counsellors about His Majestie, who can lay no other foundation of their own greatnesse, but upon the Ruine of this, and in it of all *Parliaments*, and in them of the true Religion, and the freedom of this Nation. And these are the men that would perswade the people, that both Houses of *Parliament* containing all the *Peers* and representing all the *Commons* of *England*, would destroy the Laws of the Land and Libertie of the

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believing to have been great, and yet we have seen that the people, whom besides the trust of the whole, they themselves in their own
particulars have so great an interest of honour and estate, That we hope it will
gain little credit, with any that have the least use of reason, that such as must needs
be great, that in the misery should take so much pains in the prosecuting thereof,
and spend so much time, and run so many hazards to make themselves slaves, and
to destroy the property of their estates. But that we may give particular satisfaction
on to the severall imputations cast upon us, we shall take them in Order as they are
laid upon us in that Message. First, we are charged for the avowing of that Act of Sir
John Hotham, which is termed unparalleled and an high & wilfuld of affront unto
his Majestie, and as if we needed not to have done it, he being able as is alledged,
to produce no such command of the Houses of Parliament. Although Sir John
Hotham had not an Order that did expresse every circumstance of that case, yet he
might have produced an Order of both Houses which did comprehend this Case,
not only in the clear intention, but in the very words thereof, which knowing in
our Consciences to be so, and to be most necessarie for the safetie of the Kingdom,
we could not but in Honour and Justice avow that Act of his, which we are con-
fident will appear to all the world to be so far from being an affront to the King,
that it will be found to have been an act of great Loyalty to His Majestie, and to
his Kingdom. The next charge upon us is, that instead of giving his Majestie satisfaction, we
published a Declaration concerning that businesse, as an appeal to the people, and
as if our intercourse with his Majestie, and for his satisfaction, were now to no
more purpose, which course is alledged to be very unagreeable to the modesty and
duty of former times, and not warrantable by any Presidents, but what our selves
have made. If the Remect of this Message had expected a while, or had not ex-
pected, that two Houses of Parliament, especially burthened as they are at this
time with so many pressing and urgent affairs, should have moved as fast as him-
self, he would not have said that Declaration was instead of an Answer to His
Majestie, which we did dispatch with all the speed and diligence we could, and
have sent it to His Majestie by a Committee of both Houses, whereby it appears
that we did it not upon that grounds that we thought it was no more, to any pur-
pose to endeavour to give his Majestie satisfaction. And as for the duty and mo-
desty of former times from which we are said to have varied, and to want the war-
rant of any Presidents therein, but what our selves have made, but if we have
made any Presidents this Parliament, we have made them for pollitic, upon the
same or better grounds of reason and Law then those were upon which our Pre-
decessors first made any for us, and as some Presidents ought not to be rules for us
to follow; so none can be limits to bound our proceedings; which may and must
vary according to the different condition of times, and for this particular of setting
forth Declarations for the satisfaction of the people, who have chosen and elected
us with all that is dearest to them, if there be no example for us, because there
were never any such Monarchs before this, even in the best of times, the people
were not so eminent, or could ever have born a thought that it might be expected,
before there were such practices to poison the people with an ill apprehension of the
Royal power, and that there were such insinuations and slanders laid upon the proceed-

ings of both Houses; were there ever so many, and so great breaches of privilege of Parliament, were there ever so many, and so desperate designs of force and violence against the Parliament, and the Members thereof. If we have done more than ever our Ancestors have done, we have suffered more than ever they have suffered, and yet in point of modesty and duty we shall not yield to the best of former times, and we shall put this in issue, whether the highest and most unwarrantable presidents of any of His Majesties Predecessors, do not fall short and much below what hath been done unto us this Parliament; And on the other side, whether if we should make the highest Presidents of other Parliaments our patterns, there would be cause for complaint of want of modesty and duty in us, which we have not so much as suffered such things to enter into our thoughts, which all the world knows they have put in act.

Another Charge which is laid very high upon us (and which were indeed a very great Crime if we were found guilty thereof) is that by avowing this act of Sir John Hotham, we do in Consequence confound and destroy the title and Interest of all his Majesties good subjects to their lands and goods, and that upon this ground, That his Maestie hath the same title to his town of *Hull*, which any of his subjects have to their houses or lands, and the same to his Magazin and Munition there, that any man hath to his money, plate, or Jewels; and therefore that they ought not to have been disposed of without or against his consent, no more then the house, land, money, plate, or Jewels, of any subject ought to be without or against his will.

Here that is laid down for a Principle which would indeed pull up the very foundation of the liberty, property and interest of every subject in particular, and of all the subjects in generall, if we should admit it for a truth that his Maestie hath the same right and Title to his Towns and to his Magazines (bought with the publique moneys as we conceive that at *Hull* to have been) what every particular man hath to his house, lands, and goods, for his Majesties towns are no more his own, then his Kingdom is his own, and his Kingdom is no more his own, then his people are his own; and if the King had a propriety in all his Towns, what would become of the subjects propriety in their houses and lands; and if he had a propriety in his Kingdom, what would become of the subjects propriety in their lands throughout the Kingdom; or of their liberties, if his Maestie had the same right in their persons, that every subject hath in their lands, or goods: and what should become of the subjects interest in the Towns and Forts of the Kingdom, and in the Kingdom itself, if his Maestie might sell or give them away, or dispose of them at his pleasure, as a particular man may do with his lands and with his Goods. This erroneous maxime, being infused into Princes that their Kingdoms are their own, and that they may do with them what they will, as if their Kingdoms were, for them, and not they for their Kingdoms) is the Root of all the subjects misery, and of the invading of their just Rights and Liberties; whereas indeed they are only intrusted with their Kingdoms, and with their Towns, and with their people, and with the publique Treasure of the Common wealth, and whatsoever is bought therewith and by the known Law of this Kingdom: the very Jewels of the Crown are not the Kings proper goods, but are only intrusted to him for the use and ornament thereof. As the Towns, Forts, Treasures, Maga-

in, Offices and people of the Kingdom, and the whole Kingdom it self is intrusted into him for the good and safety and best advantage thereof. And as this trust is for the use of the Kingdom, so ought it to be managed by the advice of the Houses of Parliament, whom the Kingdom hath trusted for that purpose; it being their duty to see it be discharged according to the condition and true intent thereof, and as much as in them lies by all possible means to prevent the contrary: Which if it hath been their chief care and onely ayme in the disposing of the town and Magazin of *Hull* in such manner as they have done, they hope it will appear clearly to all the world, that they have discharged their own trust, and not invaded that of His Majestie, much lesse his property which in this case they could not do.

But admitting His Majestie had indeed had a proprietie in the Towne and Magazine of *Hull*, who doubts but that a Parliament may dispose of any thing wherein His Majestie or any Subjects hath a right, in such a way, as that the Kingdome may not be exposed to hazard or danger thereby, which is our case in the disposing of the Towne and Magazine of *Hull*. And whereas His Majestie doth allow this and a greater power to a Parliament, but in that sense onely as he himselfe is a part thereof, wee appeale to every mans Conscience that hath observed our proceedings, whether we disjoyned His Majestie from His Parliament, who have in all humble wayes sought his Concurrence with us, as in this particular about *Hull*, and for the removeall of the Magazine there, so also in all other things, or whether these evill Counsels about him have not separated him from his Parliament, not only in distance of place, but also in the discharge of this joynt trust with them for the peace and safetie of the Kingdome in this and some other particulars.

We have given no occasion to His Majestie to declare His resolution with so much earnestnesse, that he will not suffer either of both Houses by their Votes without or against his consent to enioyne any thing that is forbidden by the Law, or to forbid any thing that is enioyned by the Law. For our Votes have done no such thing, and as we shall be very tender of the Law (which we acknowledge to be the safeguard and custody of all publike and private Interesses) so we shall never allow a few private Persons about His Majestie, nor His Majestie himselfe in His own Person & out of his Courts to be Judge of the Law, and that contrary to the judgement of the highest Court of Judicature: In like manner that His Majestie hath not refused to consent to any thing that might be for the peace and happiness of the Kingdom, we cannot admit it in any other sense, but as His Majestie taketh the measure of what will be for the peace and happiness of the Kingdom from some few interested persons about him, contrary to the advice and judgement of His great Council or Parliament. And because the Advice of both Houses of Parliament hath through the suggestion of evill Councillors been so much undervalued of late, and so absolutely rejected and refused, wee hold it fit to declare unto the Kingdom (whose honour and interest is so much concerned in it) what is the priviledge of the great Council of Parliament herein, and what is the Obligation that lyeth upon the Kings of this Realme to passe such Bills as are offered unto them by both Houses of Parliament, in the name, and for the good of the whole Kingdom, wherunto they stand engaged both in conscience and in justice

to give their royal assent, in confidence, in respect of the Oath which is to be taken by the **KINGS** of this Realme at their **CORONATION**, as well to confirme by their Royal assent such good Lawes as their people shall chooseth and to remedy by Law such inconveniences as the Kingdom may suffer, as to keepe and protect the Lawes already in being, as may appeare both by the forme of the Oath upon Record, and in bookes of good Authoritie, and by the Statute of the 25. *Edw. 3.* entitled the Statute of Provisors of Benefices, the forme of which Oath, and the cause of that Statute concerning are as followeth.

Rot. Parl.
2 H. 4. N.
17. 2.

Forma juramenti soliti & consueti prelati, per Reges Anglia in eorum Coronatione.
Servabis Ecclesie Dei, Cleroq; & populo pacem ex integra & concordiam in Deo servandam vires tuas?

Respondet, Servabo.
Pacem fieri in omnibus iudiciis tuis equam & rectam iustitiam & discretionem in misericordia & lenitate secundum vires tuas.

Respondet, Faciam.
Concedis justas leges & consuetudines esse tenendas & permittis per te eas esse protegendas & ad honorem Dei corroborandas quas vulgus elegerit secundum vires tuas?

Respondet, Concedo & permitto.
Adjicianturq; predictis interrogationibus que iusta fuerint per nunciat. 19. omnibus conformes. Rex se omnia servaturum sacramento super altare prestito coram cunctis.

A Clause in the Preamble of a Statute made 25. *Edw. 3.* Entituled the Statute of Provisors of Benefices.

Wherupon the said Commons have prayed our said Lord the King, that first the right of the Crowne of England, and the Law of the said Realme is such, that upon the mischiefs and damages which happen to his Realme, he ought, and is bound by his Oath, with the accord of his people in his Parliament, thereof to make remedy and Law, and in removing the mischiefs and damages which thereof ensue, that it may please him thereupon to ordaine remedy.

Our Lord the King seeing the mischiefs and damages before-mentioned, and having regard to the said Statute, made in the time of his said Grandfather, and to the causes contained in the same, which Statute holdeth alwayes his force, and was never defeated, repealed, nor adnulled in any point, and by so much he is bounden by his Oath to cause the same to be kept as the Law of his Realme, though that by negligence and negligence it hath been lictence attempted to the contrary, also having regard to the grievous complaints made to him by his people in divers of his Parliaments holden heretofore, willing to ordaine remedy for the great damages and mischiefs which have happed, and daily do happen to the Church of England by the said cause.

Here the Lords and Commons claime it directly as the right of the Crowne of England, and of the Law of the Land, and that the King is bound by his Oath, with the accord of his people in Parliament to make remedy and Law upon the mischiefs and damages which happen to this Realme, and the King doth not deny it, although he take occasion from a Statute formerly made by his Grandfather,

ther,

that, which was layd as part of the grounds of this Petition, to give his Answer upon another Branch of his Oath, and pretexts that which is claimed by the Lords and Commons, which he would not have done if it might have been excepted against.

In justice they are obliged therunto, in respect of the trust reposed in them, which is as well to preserve the Kingdome by the making of new Lawes, when there shall be need, as by the observing of Lawes already made. A Kingdome being many times as much exposed to ruin for the want of a new Law, as by the violation of those that are in being, and this is so clear a right, that no doubt His Majesty will acknowledge it to be as due unto his people as his protection, but how farre forth he is obliged to follow the judgement of his Parliament therein, that is the question. And certainly, besides the words in the Kings Oath, relating unto such Lawes as the people shall choose, as in such things which concern the Publicke weale, the good of the Kingdome, they are the most proper Judges who are sent from the whole Kingdome for that very purpose, so wee doe not thinke that since Lawes have passed by way of Bills (which are read thrice in both Houses, and committed, and every part and circumstance of them fully weighed and debated upon the commitment, and afterwards passed in both Houses) that ever the Kings of this Realme did deny them otherwise then as expressed in that usual Answer *Le Roy s'avisera*, which signifies rather a suspension then a refusal of the Royal Assent, and in those other Lawes which are framed by way of Petitions of Right, the Houses of Parliament have taken themselves to be soveraine Judges of the Rights claimed by them, that when the Kings answer hath not in every point been fully according to their desire, they have still insisted upon their claims, and never rested satisfied till such time as they had an answer according to their own demand, as was done in the late Petition of Right, and in former times upon the like occasion, and if the Parliament be Judge between the King and his people in the Question of Right (as by the manner of the claim in Petitions of Right, and by Judgements in Parliament, in Cases of illegal Impositions and Taxes, and the like it appeareth to be) why should they not be so also in the question of the common good, and necessity of the Kingdome, wherein the Kingdome hath as close a right also to have the benefit and remedy of Law, as in any thing whatsoever, and yet we doe not deny, but in private Bills, and also in publicke Acts of Grace, Pardons, and the like grants of favour, His Majesty may have a greater latitude of granting or denying as he shall thinke fit.

All this considered, we cannot but wonder that the Comraiser of this Message, should conceive the people of this Land to be so voyd of common sense, as to enter into to deep a mistrust of those that they have, and his Majesty ought to reprove so great a fault in, as to despair of any security in their private Estates, by Dubieties, Purchases, Assurances, or Conveyances, unless His Majesty should by his Vote prevent the prejudice they might receive therein, by the Votes of both Houses of Parliament. As if they who are especially chosen and entrusted for that purpose, and who themselves must needs have so great a share in all grievances of the Subject, had wholly cast off all care of the Subjects goods, and His Majesty had wholly taken it up: And as if it could be imagined that any should by their Votes overthrow the rights of Descents, Purchases, or of any Conveyance or Assurance, in whole

whole judgement the whole Kingdome hath placed all their particular Interests, if any of them should be called in question in any of those Cases, & that as knowing not where to place them with greater securitie) without any appeal from them to any other person or Court whatsoever.

But indeed we are very much to seeke how the case of *Hull* should concerne Dissones, and Purchases, or Conveyances, and Assurances, unlesse it be in procuring more securitie to men in their private Interests by the preservation of the whole from confusion and destruction, and much lesse doe wee understand how the Sovereigne Power was resisted and despised therein; Certainly no command from His Majestie, and his high Court of Parliament (where the Sovereigne Power resides) was disobeyed by Sir *John Horne*, nor yet was his Majesties Authority derived out of any other Court, nor by any legal Commission, or by any other way, wherein the Law hath appointed His Majesties commands to be derived to his Subjects, and of what validitie his verbal Commands, without any such stamp of his Authority upon them, and against the order of both Houses of Parliament, whether the not submitting thereto be a resisting and despising of the Sovereignes Authority, we leave it to all men to judge, that doe at all understand the government of this Kingdome.

We acknowledge that His Majestie hath made many expressions of his zeale and intentions against the desperate designes of Papists, but yet it is also as true, that the Counsell which have prevailed of late with him, have been little suitable to those expressions and intentions: For what doth more advance the open and bloody designe of the Papists in *England*, (whereon the secret plots of the Papists here, do in likelihood depend) then His Majesties absending himselfe, in that manner that he doth from his Parliament, and setting forth such sharpe Invectives against them, notwithstanding all the humble Petitions, and other meanes which his Parliament hath addressed unto him for his returne, & for his satisfaction concerning their proceedings. And what was more likely to give a life to the designes of Papists, (whereof there are so many in the North neare to the Towne of *Hull*) and of other malignant & ill-affected persons, which are ready to joyn with them, or to the attempts of forrainers from abroad, than the continuing of that great Magazin at *Hull* at this time, and contrary to the desire and advice of both Houses of Parliament; So that we have too much cause to believe that the Papists have still some way and means, whereby they have influence upon his Majesties Counsell for their owne advantage.

For the Malignant party his Majestie needeth not a definition of the Law, nor yet a more full Character of them from both Houses of Parliament for to finde them out, if he will please only to apply the Character that himselfe hath made of them to those unto whom it doth properly & truly belong, who are so much disaffected to the peace of the Kingdom as they doe endeavour to disaffect his Majestie from the Houses of Parliament, and perswade him to be at such a distance from them both in place and affection: Who are more disaffected to the government of the Kingdome, than such as lead his Majestie away from harkning to his Parliament, which by the constitution of this Kingdome is his greatest & best Councell, & perswade him to follow the malicious counsels of some private men, in opposing and contradicting the wholesome advices, & just proceedings of that his most faithfull

Councell

cell and highest Court? Who are they that not only neglect and despise, but labour to undermine the Law, under colour of maintaining of it? But they that endeavour to destroy the fountaine and Conservatory of the Law, which is the Parliament; and who are they that set up other Rules for themselves to walke by, then such as are according to Law, but they that will make other Iudges of the Law; then the Law hath appoynted, and so dispence with their obedience, to that which the Law calleth Authoritie, and to their determinations and resolutions to whom the Iudgement doth appertaine by Law: For when private persons shall make the Law; so be their Rule, according to their own understandings, contrary to the judgement of those that are competent Iudges thereof; they set up unto themselves other Rules than the Law doth acknowledge: Who these persons are, none knoweth better than his Majestie himselfe: And if he will please to take all possible caution of them, as destructive to the Common wealth, and himselfe; and would remove them, from about him, it would be the most effectuall meanes to compose all the distractions, and to cure the distempers of this Kingdome.

For the Lord *Digby* his letter, we did not make mention of it as a ground to hinder his Majestie from visiting his own fort, but we appeale to the judgement of any indifferent man that shall read that Letter, and compare with the posture that his Majestie then did, and still doth stand in, towards the Parliament, and with the circumstances of that late action of his Majestie, in going to *Hull*, whether the Advisor of that Journey, intended only a visit of that fort and Magazine, as to the wayes and overtures accommodation, and the message of the 20 of January last, so often pressed, but still in vaine, as is alledged. Our Answer is, that although so often as the 20 of January hath been pressed, so often have our priviledges been cleerly infringed; that a way and method of proceeding should be prescribed unto us, as well for the settling of his Majesties Revene, as for the pressing of our desires (a thing which in former Parliaments hath alwayes been excepted against as a breach of privilege) yet in respect of the matter contained in that message, and out of our earnest desire to beget a good understanding between his Majestie, and us, we swallowed down all matters of Circumstance, and had ere this time presented the chief of our desires to his Majestie, had we not been interrupted with continuall Denyalls even of those things that were necessary for our present security and subsistence, and had not those denyalls been followed with perpetuall Invectives against us and our proceedings, and had not those invectives been heaped upon us so thick one after another, (who were already in a manner wholly taken up with the pressing affaires of this Kingdome, and of the Kingdome of Ireland) that as we had little encouragment from thence to hope for any good Answer to our desires, so we had not so much time left us to perfect them in such a manner as to offer them unto his Majestie.

We confesse it is a Resolution most worthy of a Prince, and of his Majestie, to shut his eares against any that would incline him to a civill Warre, and to abhor the very apprehension of it, but we cannot beleve that mind to have bin in them that came with his Majestie to the House of Commons, or in them that accompanied his Majestie to *Hampton Court*, and appeared in a warlike manner at *King-*

ston upon Thames, or in divers of them that followed his Majestie now latley to *Hull*, or in them that after drew their Swords at *Tork*, demanding who would be for the King, nor in them that advised his Majesty to declare Sir *John Hotham* a Traytor before the Message was sent concerning that businesse to the Parliament, or to make Propositions to the Gentlemen of the County of *Tork*, to assist His Majesty to proceed against him in a way of force before he had, or possible could receive an Answer from the Parliament, to whom he had sent to demand Justice of them against Sir *John Hotham* for that Fact; and if those Malignant spirits shall ever force us to defend our Religion, the Kingdome, the Priviledges of Parliaments, and the Rights and Liberties of the Subjects, with our swords, the blood and destruction that shall ensue thereupon must be wholly cast upon their Accompt, God and our owne consciences tell us that we are cleare, and we doubt not but God and the whole world will cleare us therein.

For Captaine *Legg* we did not say that he was accused, or that there was any charge against him for the bringing up of the Army, but that he was imployed in that businesse. And for that question concerning the Earle of *New Castle* mentioned by his Majesty, which is said to have bin asked long since, and that is not easie to be answered; We conceive that it is a question of more difficulty and harder to be answered: Why, when his Majestie held it necessary, upon the same grounds that first moved from the Houses of Parliament; That a Governour should be placed in that Towne, Sir *John Hotham* a Gentleman of knowne Fortune and Integrity, and a person of whom both Houses of Parliament had expressed their confidence, should be refused by his Majestie, and the Earle of *New Castle* (who by the way was so far named in the businesse of the bringing up of the Army, that although there was not ground enough for a judiciale proceeding, yet there was ground of suspicion, at least his reputation was not left so unblemished thereby, as that he should be thought the fittest man in *England* for that imployment of *Hull*) should be sent downe in a private way from his Majestie to take upon him the government, and why he should disguise himself under another name when he came thither, as he did. But whosoever shall consider, together with these circumstances; that of the time when Sir *John Hotham* was first appointed by both Houses of Parliament to take upon him that imployment, which was presently after his Majesties comming to the House of Commons, and upon the retiring of himselfe to *Hampton Court*, and the *L. Digbys* assembling of Cavaliers at *Kingstone* upon *Thames*, will find reason enough why that Town of *Hull* should be committed rather to Sir *John Hotham* by the authoritie of both Houses of Parliament, then to the Earle of *New Castle*, sent from his Majesty in that manner that he was. And for the power that Sir *John Hotham* hath from the Houses of Parliament, the better it is known and understood; we are confident the more it will be approved of and justified: And as we do not conceive that his Majesties refusall to have that Magazin removed could give any advantage against him to have it taken from him, and as no such thing is done, so we cannot conceive for what other reason any should counsel his Majesty not to suffer it to be removed, upon the desire of both Houses of Parliament, except it be that they had an intention to make use of it against them. We

We did not except against those that presented a petition to His Majesty at *Torke* for the continuance of the Magazine at *Hull*, in respect of their condition, or in respect of their number, because they were mean persons, or because they were few; but because they being but few, and there being so many more in the County of as good quality as themselves (who have by their petition to His Majesty disavowed that act of theirs) that they should take upon them the stile of all the Gentry and Inhabitants of that County, and under that title should presume to interpose their advice contrary to the Votes of both Houses of Parliament; and if it can be made to appear, that any of these petitions that are said to have been presented to the Houses of Parliament, and to have been of a strange nature, were of such a nature as that, we are confident that they were never received with our consent and approbation.

Whether there was an intention to deprive Sir *Iohn Horbam* of his life, if His Majesty had been admitted into *Hull*, and whether the information were such, as that he had ground to believe it, we will not bring it into question; for that was not, nor ought to have been the ground for doing what he did, neither was the number of His Majesties Attendants, for being more or fewer, much considerable in this case: For although it be true, that if His Majesty had entered with twenty horse only, he might haply have found means for to have forced the entrance of his Train, who being once in the Town, would not have been long without Arms; yet that was not the ground that Sir *Iohn Horbam* was to proceed upon, but upon the admittance of the King into the Town at all, so as to deliver up the Town and Magazine unto him, and to whomsoever he should give the command thereof, without the knowledge and consent of both Houses of Parliament, by whom he was entrusted to the contrary; and His Majesty having declared that to be his intention concerning the Town, in a Message that he sent to the Parliament not long before he went to *Hull*, saying, That he did not doubt but that Town should be delivered up to him whensoever he pleased, as supposing it to be kept against him; and in like manner concerning his Magazine, in his Message of the four and twentieth of April, wherein it is expressed, That His Majesty went thither with a purpose to take into his hands the Magazine, and to dispose of it in such manner as he should think fit; upon these terms Sir *Iohn Horbam* could not have admitted his Majesty, and have made good his trust to the Parliament, though his Majesty would have entered alone, without any Attendance at all of his own, or of the Prince, or Duke, his sons, which we do not wish to be less than they are in their number, but could heartily wish that they were generally better in their conditions.

In the close of this Message, His Majesty states the case of *Hull*, and thereupon inferreth that the act of Sir *Iohn Horbam* was levying of war against the King, and consequently that it was no less than high Treason, by the Letter of the Statutes of 25 *Edw. 3. cap. 2.* unless the sense of that Statute be very far differing from the Letter thereof.

In the stating of this Case divers particulars may be observed wherein it is not rightly stated: As first, That His Majesties going to *Hull* was only an endeavour to

visit a Town and Fort of his, whereas it was indeed to possess himself of the
 Town and Magazine there, and to dispose of them as he himself should think
 good, without and contrary to the Advice and Orders of both Houses of Par-
 liament, as doth clearly appear by his Majesties own Declaration of his inten-
 tions therein, by his Messages to both Houses immediately before and after that
 journey. Nor can we believe that any man that shall consider the strictness
 of that journey to *Hull*, can think that his Majesty would have gone thither
 at that time, and in that posture, that he was pleased to put himself in towards
 the Parliament, if he had intended onely a visit of the Town and Magazine. Se-
 condly, it is said to be His Majesties own Town, and his own Magazine: which
 being understood in that sense as was before expressed, as if his Majesty had a
 private interest of propriety therein, we cannot admit it to be so. Thirdly,
 (which is the main point of all) Sir *John Hotham* is said to have shut the gates
 against his Majesty, and to have made resistance with armed men in defiance of
 his Majesty: whereas it was indeed in obedience to his Majesty and his autho-
 rity, and for his service, and the service of the kingdom, for which use onely
 all that interest is that the King hath in the Town; and it is no further his to dis-
 pose of, then he useth it for that end: And Sir *John Hotham* being commanded
 to keep the Town and Magazine for his Majesty and the Kingdom, and not to de-
 liver them up, but by his Majesties authority signified by both Houses of Parlia-
 ment, all that is to be understood by those expressions of his chying and oppo-
 sing his Majesties entrance, and telling him in plain terms he should not come in,
 was onely this, That he humbly desired his Majesty to forbear his entrance, till he
 might acquaint the Parliament, and that his authority might come signified to
 him by both Houses of Parliament, according to the trust reposed in him. And
 certainly if the Letter of the Statute of 5 *Ed. 3. cap. 2.* be thought to import this,
 that no war can be levied against the King, but what is directed and intended a-
 gainst his person; or that every levying of forces for the defence of the Kings au-
 thority, and of his Kingdom, against the personall commands of the King oppo-
 sed thereunto, though accompanied with his presence, is levying war against the
 King, it is very far from the sense of this Statute; and so much the Statute it self
 speaks (besides the authority of Book-cases, Presidents of divers Traitors con-
 demned upon that interpretation thereof:) For if the Clause of levying of war
 had been meant onely against the Kings person, what need had there been thereof,
 after the other branch of Treason in the same Statute of compassing the Kings
 death, which would necessarily have implied this; and because the former clause
 doth imply this, it seems not at all to be intended in this latter branch, but onely
 the levying of war against the King, that is, against his Laws and Authority; but
 in the maintenance thereof, is no levying of war against the King, but for him.
 Here is then our case: In a time of so many successive plots and designs of force
 against the Parliament and Kingdom; in a time of probable invasion from abroad,
 and that to begin at *Hull*, and to take the opportunity of seizing upon so great a
 Magazine there: In a time of so great distance and alienations of his Majesties
 affections from his Parliament, and in them from his Kingdom, which they ge-
 present,

present, by the wicked suggestions of a few Malignant persons, by whose mischievous counsels he is wholly led away from his Parliament, and their faithfull advices and counsels; In such a time the Lords and Commons in Parliament command Sir John Hotham to draw in some of the trained Bands of the parts adjacent to the Town of Hull, for the securing of that Town and Magazine, for the service of his Majesty and of the Kingdom; of the safety whereof there is a higher trust reposed in them then any where else, and they are the proper judges of the danger thereof.

This town and Magazine being entrusted to Sir John Hotham, with expresse order not to deliver them up, but by the Kings authority signifieth by both Houses of Parliament; his Majesty, contrary to the advice and direction of both Houses of Parliament, without the authority of any Court, or of any legall way wherein the Law appoints the King to speake and command, accompanied with the same evill Councell about him that he had before, by a verball command requires Sir John Hotham to admit him into the Towne, that he might dispose of it, and of the Magazine there, according to his owne, or rather according to the pleasure of those evill Counsellours, which are still in so much credit about him: in like manner as the Lord Dygby hath continuall recourse unto, and continuarie from the Queens Majesty in Holland, by which means he hath opportunity still to communicate his trayterous suggestions and conceptions to both their Majesties, such as those was concerning his Majesties retiring to a place of strength, and declaring himself, and his own advancing of his Majesties service in such a way beyond the seas, said after that resorting to his Majesty in such a place of strength; and divers other things of the nature, contained in his letter to the Queens Majesty, and to Sir Lewis Dives, a person that had not the least part in this late businesse of Hull; and was presently dispatcht away into Holland, soon after his Majestys returne from Hull, for what purpose we leave the world to judge.

Upon the refusall of Sir John Hotham to admit his Majesty into Hull, presently without any due processe of Law, before His Majesty had sent up the narration of his fact to the Parliament, he was proclaimed Traitor; and yet it is said, that therein there was no violation of the Subjects right; nor any breach of the law, nor of the priviledge of Parliament; though Sir John Hotham be a Member of the House of Commons: And that his Majesty must have better reason then bare Votes to beleieve the contrary. Although the Votes of the Lords and Commons in Parliament, being the great Councell of the Kingdom, are the reason of the King and of the Kingdom, yet these Votes do not want cleer and apparent reason for them: For if the solemn proclaiming a man a Traytor signifie any thing, it puts a man, and all those that any way aid, assist, or adhere unto him, into the same condition of Traitors, and draws upon him all the consequences of Treason; and if his may be done by Law, without due processe of Law, the Subject hath a very poor defence of the Law; and a very small, if any portion of liberty thereby: and it is as little satisfaction to a man that shall be exposed to such penalties, by that declaration of him to be a Traitor, to say hee shall have a Legall triall afterwards, as it is to condemn a man first, and try him afterwards: And if there be a necessity for any such proclaiming a man a Traitor without due processe of Law yet there was none in this case: For his Majesty might have as well expected the Justice of the Parliament (which was the right way) as he had leisure to send to them to demand Justice against Sir John Hotham. And the breach of Priviledge of Parliament in this case as the subversion of the Subjects common right: For though the Priviledges of Parliament do extend to those cases mentioned in the Declaration of Treason, Felony, and breach

breach of the peace, so as to exempt the Members of Parliament from punishment, nor from all manner of Proccesse and triall, as it doth in other cases, yet it doth privilege them in the way and method of their triall and punishment, and that the Parliament should have the cause first brought before them, that they may judge of the fact, and of the grounds of the accusation, and how far forth the manner of their tryall may concern or not concern the Privilege of Parliament: otherwise it would be in the power not onely of his Majesty, but of every private man, under pretensions of Treasons, or those other crimes, to take any man from his service in Parliament, and so as many one after another as he pleaseth, and consequently to make a Parliament what he will, when he will, which would be a breach of so essentiall a privilege of Parliament, as that the very being thereof depends upon it: and therefore we no wayes doubt, but every one that hath taken the Protestation, will according to his solemn Vow and Oath, defend it with his life and fortunes. Neither doth the sitting of a Parliament, suspend all or any Law, in maintaining that Law which upholds the Privilege of Parliament, which upholds the Parliament which upholds the Kingdom; And we are so far from beleeving that his Majesty is the onely person against whom Treason cannot be committed, that is some sence wee acknowledge hee is the onely person against whom it can be committed; that is, as hee is King, and that Treason which is against the Kingdom is more against the King, then that which is against his Person, because he is King: For that very Treason is not Treason, as it is against him as a man, but as a man that is a King; and as he hath relation to the Kingdom, and stands as a person intrusted with the Kingdom, and discharging that trust. Now the case is truly stated, and all the world may judge where the fault is, although we must avow that there can be no competent judge of this or any the like case but a Parliament, and we are as confident, that His Majestie shall never have cause to resort to any other Court or Course, for the vindication of his just Privileges, and for the recovery and maintenance of his known and untoubted Rights, if there should be any Invasion or violation thereof, than to his high Court of Parliament. And in case wicked Counsellours about him shall drive him into any other Course from and against his Parliament, whatever are his Majesties expressions and intentions, wee shall appeal to all mens consciences, and desire that they would lay their hands upon their hearts, and think with themselves, whether such persons as have of late and still do resort to his Majesty, and have his care and favour most, either have been or are more zealous Assertors of the true Protestant Profession (although we believe they are more earnest in the Protestant Profession, then in the Protestant Religion) or of the Law of the Land, the Liberty of the Subject, and the Privileges of the Parliament, then the Members of both Houses of Parliament, who are insinuated to bee the Defectors, if not the Destroyers of them: And whether if they could master this Parliament by force, they would not hold up the same power to deprive us of all Parliaments, which are the ground and pillar of the Subjects Liberty, and that which maketh England onely a free Monarchy.

For the Order of Assistance to the Committees of both Houses, as they have no directions or instructions, but what have the Law for their Limits, and the safety of the Land for their ends; so we doubt not but all persons mentioned in that Order, and all his Majesties good Subjects will yeeld obedience to His Majesties Authority signified therein by both Houses of Parliament: And that all men may the better know their duty in matters of that nature, and upon how sure a ground they go that follow the judgement of Parliament for their guide, we with them judiciously to consider the true meaning and ground of that Statute made in the eleventh yeare of Hen. 7. cap. 1. which is printed at large in the end of His Majesties Message of the fourth of May. This Statute provides, that none that shall attend upon the King, and do him true Service, shall be attainted or forfeit any thing: What was the scope of this Statute? To provide that men should not suffer as Traytors for serving the King in His Warres according to the duty of their Allegiance: If this had been all, it had beene a very needlesse and ridiculous Statute: Was it then intended (as they may seeme to take the meaning of it to be, that caused it to be printed after his Majesties Message,) that they should be free from all crime and penalty that should follow the King and serve him in Warre in any case whatsoever; whether it were for or against the Kingdom,

and the Laws thereof? That cannot bee, for that could not consist with the duty of the Allegiance; which in the beginning of this Statute is expressed to bee, to serve the King for the time being in his Warres, for the defence of Him and the Land; and therefore if it be against the Land, (as it cannot be understood to be otherwise if it be against the Parliament, the representative body of the Kingdom,) It is a declining from the duty of Allegiance, which this Statute supposeth may be done, though men should follow the Kings Person in the Warre: Otherwise there had been no need of such a Proviso in the end of this Statute, that none should take benefit thereby that should decline from the Allegiance. That therefore which is the Principle Verb in this Statute, is the serving of the King for the time being; which cannot be meant of a Perkin Warbeck, or any that should call himselfe King; but such a one as what ever Title might prove, either in himselfe or in his Ancestors, should be recieved and acknowledged for such by the Kingdome; the consent whereof cannot be discerned but by Parliament; the Act whereof is the Act of the whole Kingdome by the personall suffrage of the Peeres, and the delegate consent of all the Commons in England: And Aen. 7. a wise King, considering that what was the Case of R. 3. his Predecessor, might by chance of battel be his owne, and that he might at once by such a Statute as this, satisfie such as had served his Predecessor in his Warrs; and also secure those that should serve him, who might otherwise feare him in his Warrs, lest by chance of Battell that might happen to him also (if a Duke of Yorke had set up a Title against him) which had happened to his Predecessor: he procured this Statute to be made, that no man should be accounted a Traytor for serving the King in his Warrs for the time being; that is, which was for the present allowed and recieved by the Parliament in behalfe of the Kingdome; and as it is truly suggested in the Preamble of the Statute. It is not agreeable to reason or conscience that it should be otherwise, seeing men should be put upon an impossibility of knowing their duty, if the judgement of the Highest Court should not be a Rule and guide to them: and if the judgement thereof should be followed, where the question is who is King? Much more, what is the best service of the King and Kingdome, and therefore those that shall guide themselves by the judgement of Parliament, ought what ever happen to be secure and free from all account and penalties, upon the grounds and equitie of this very Statute.

We shall conclude, that although those wicked Councillors about his Majestie, have presumed under his Majesties name to put that dishonour and affront upon both Houses of Parliament, as to make them the countenancers of Treason; enough to have dissolved all the bands, sinews of confidence between his Majestie and his Parliament, (of whom the Maxime of the law is, That a dishonourable thing ought not to be imagined of the n) yet we doubt not but it shall in the end appeare to all the world, that our indeavours have been most hearty and sincere, for the maintainance of the true Protestant Religion, the Kings just Prerogatives, the Lawes and Liberties of the Land, and the Priviledges of Parliament; in which endeavours by the grace of God we will still persist, though we should perish in the worke: which if it should be, it is much to be feared, That Religion, Lawes, Liberties and Parliaments, would not be long-lived after us.

F I N I S.